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MORAL FOUNDATIONS OF AMERICAN DEMOCRACY

VIRGIL C. BLUM*

The question of religion and religiously grounded moral principles in public policy making can, perhaps, most profitably be discussed in terms of the efforts of some Catholic politicians to "privatize" their religion, thus making it irrelevant to their roles in public policy formation. Therefore, I shall focus this discussion of moral principles in public policy making with special reference to statements made and positions taken by Roman Catholic church spokesmen and several Catholic politicians.

In the foreword of his new book, *The Naked Public Square*, the Rev. Richard John Neuhaus writes:

Politics and religion are different enterprises, and it is understandable that many people would like to keep them as separate as possible. But they are constantly coupling and getting quite mixed up with one another. There is nothing new about this. It seems likely that it has always been the case in all societies.

What is relatively new is the naked public square. The naked public square is the result of political doctrine and practice that would exclude religion and religiously grounded values from the conduct of public business. The doctrine is that America is a secular society. It finds dogmatic expression in the ideology of secularism. I will argue that the doctrine is demonstrably false and the dogma exceedingly dangerous.¹

The belief that religion and religiously grounded moral values should be excluded from the conduct of public business is, indeed, perceived by many to be exceedingly dangerous. Debate over the legitimacy of such a doctrine has raged for years, reaching its high point during the presidential cam-

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1. R. NEUHAUS, *THE NAKED PUBLIC SQUARE: RELIGION AND DEMOCRACY IN AMERICA* vii (1984).

paign of 1984, in the discussion of the abortion issue. Democratic Vice-Presidential Candidate Geraldine A. Ferraro argued, "As a Catholic, I accept the premise that a fertilized ovum is a baby . . . [but] I have no right to impose my beliefs on [others]" in public policy decisions on abortion.³ Governor Mario Cuomo of New York, taking issue with a pro-life statement of the Catholic bishops of his state, told reporters that "my individual [religious] belief ought not to be relevant" in deciding what the state's abortion policy should be.³

The National Conference of Catholic Bishops and the bishops of the State of New York took sharp issue with this attempt to totally privatize religion and moral principles.

Bishop James W. Malone, president of the National Conference of Catholic Bishops, issued a statement for the Conference which said in part:

. . . we oppose abortion . . . because a fundamental human right is at stake — the right to life of the unborn child. . . . We reject the idea that candidates satisfy the requirements of rational analysis in saying their personal views should not influence their policy decisions; the implied dichotomy — between personal morality and public policy — is simply not logically tenable in any adequate view of both.⁴

And the Catholic bishops of the State of New York issued a statement which said in part:

One of the most serious moral issues facing us today is that of legalized permissive abortion. . . . We fail to see how office holders can escape their responsibility in this grave matter. Particularly we fail to see the logic of those who contend: "I am personally opposed to abortion but I will not impose my personal views on others." That position is radically inconsistent because a third party's right is at stake. It is the same as a nineteenth century legislator saying: "I am personally opposed to slavery but I support the right of others to hold slaves if they choose."⁵

Candidate Ferraro's statement must be categorically re-

2. Woodward, *Politics and Abortion*, NEWSWEEK, Aug. 20, 1984, at 66.

3. Briggs, *Politics and Morality: Dissent in Catholic Church*, N.Y. Times, Aug. 11, 1984, at 7, col. 2.

4. Statement of Most. Rev. James W. Malone, President, National Conference of Catholic Bishops (Aug. 9, 1984), reprinted in 14 ORIGINS 162 (1984); see also N.Y. Times, Aug. 10, 1984, at B4, col. 5.

5. *Government Officials and the Support of Human Life*, excerpted in CATHOLIC LEAGUE NEWSLETTER, Jul. 1984, at 4.

jected because it totally misstates and confuses the issue of the political debate. She said, "*As a Catholic*, I accept the premise that a fertilized ovum is a baby," that is, a human being.⁶ She here confuses religion with biology. For the question of whether a fertilized ovum is a baby is not a "Catholic" question; it is not a religious question. It is a scientific question, to be answered not by theologians but by scientists.

How do scientists answer the question? The Senate Subcommittee on the Separation of Powers heard testimony from twenty-two expert witnesses on the medical and biological question of when human life begins. None claimed that unborn children are not alive nor that they belonged to any other species than human, or that they were part of the mother rather than a distinct individual human being.⁷

Dr. Bernard Nathanson, who ran the largest abortion clinic in the world, finally, on the basis of scientific evidence of his clinical experiments with fetuses, concluded he had not been removing "gobbets of meat" in abortions but killing human beings. His discovery was scientific and not a religious conversion to Catholicism, for Dr. Nathanson remains a self-styled atheist.⁸

The question to be discussed is this: Given our democratic society's religious foundations and pluralistic nature, are politicians — Catholic or otherwise — justified in totally privatizing their religion and maintaining that their religious beliefs are, therefore, totally irrelevant to public policy making?

Religion in politics is fundamental to the American concept of democracy. In the United States, we have always maintained that citizens get their rights from God, not from the state. The founding-fathers stated this emphatically in the Declaration of Independence: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed."⁹

We get our most fundamental rights from God, not from

6. Woodward, *supra* note 2 (emphasis added).

7. Hyde, *The Human Life Bill*, HUM. LIFE REV. Spring 1982, at 1, 7, 10.

8. B. NATHANSON & R. OSTLING, *ABORTING AMERICA* (1979), *passim*.

9. DOCUMENTS OF AMERICAN HISTORY 100 (H. Commager ed. 1946).

the government. We are spiritual beings created in the image and likeness of God, and as such we have rights and duties that transcend and restrict the powers of the government.

These restrictions make government the servant of the people; they force government to respect the rights and liberties of the people, and to enact laws that are consistent with moral principles which are rooted in the religious beliefs of the people.

We have a government of limited powers — powers limited by the people's moral principles rooted in belief in God and by the inalienable rights which the people received from their Creator. For those who profess belief in God, all moral principles are ultimately rooted in that Supreme Being. As the late Dr. Bernard Iddings Bell of the University of Chicago School of Divinity said:

Neither the Jewish nor the Christian morality is a natural morality; both recognize supernatural demands and rest on supermundane sanctions. . . . If there is no God, to take obvious examples, free love is entirely defensible, and politics based on force is inevitable.¹⁰

In American society today, however, some do not believe in God. Their values may, for example, be rooted in natural law and in a natural law morality, which also set limits to the powers of government.

The religious beliefs and moral principles of the people of the United States place powerful restraints on political action. Indeed, if politicians were not limited by the religious beliefs and moral principles of the people, they could, to use a shocking illustration, adopt a program of euthanasia to solve all the fiscal, social and medical problems of senior citizens.

Politics based on force is not a new concept. In fact it is inevitable when religious beliefs, as we know them in the Western world, are rejected as a limitation on the political power. When Hitler rejected religious belief and moral principles as a limitation on the powers of the Third Reich, he set out to solve what he called "a Jewish problem" by killing six million Jews.

When seven Justices of the U.S. Supreme Court rejected religious belief and moral principles as a limitation on the powers of government, they decreed that the problem of un-

10. B. BELL, *CRISIS IN EDUCATION* 145 (1949).

wanted babies could be solved by killing unborn babies.¹¹

Government unlimited by God's law becomes tyrannical government that knows no restraints in the use of power. The inalienable right to life, embraced by our founding fathers in the Declaration of Independence, is snuffed out with equal ease in Hitler's Holocaust and in the American Holocaust.

Washington's and Jefferson's fears of tyrannical government induced them to underscore the importance of belief in God as a restraint on government. President George Washington's firm belief that political morality cannot be maintained without religion is evident in his Farewell Address:

Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute of patriotism who should labor to subvert these great pillars of human happiness — these firmest props of the duties of men and citizens.

And let us with caution indulge the supposition that morality can be maintained without religion. Whatever may be conceded to the influence of refined education on minds of peculiar structure, reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principle.¹²

And Thomas Jefferson, a fierce defender of our personal liberty, echoed Washington's belief that religion is essential for public morality by posing this profoundly important question:

Can the liberties of a nation be thought secure when we have removed this only firm basis, a conviction in the minds of the people that their liberties are the gift of God?¹³

The members of the first Congress in 1787 were no less convinced that religion and morality were indispensable supports of national morality. In the Northwest Ordinance, they justified the spending of federal tax funds to support Protestant and Catholic schools in the following terms:

Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools and the

11. *Roe v. Wade*, 410 U.S. 113 (1973).

12. *DOCUMENTS OF AMERICAN HISTORY*, *supra* note 9, at 173.

13. T. JEFFERSON, *NOTES ON THE STATE OF VIRGINIA* 163 (W. Peden ed. 1955).

means of education shall forever be encouraged.¹⁴

Throughout the nineteenth century and most of the twentieth century, Congress and the Supreme Court have adhered to the belief that religion and religiously grounded moral principles were of vital importance to our democratic society. As recently as 1952 the Supreme Court declared that "we are a religious people whose institutions presuppose a Supreme Being."¹⁵

Today, however, many Congressmen do not agree with Washington, Jefferson, the members of the first Congress, and the Supreme Court of the 1950s about the importance of religion and morality in our democratic system of government. Many politicians, especially Catholics, say their religious beliefs and religiously grounded moral principles have no relevance to their public policy decisions. They profess belief in God and God's moral law, but they insist that their belief in religious truths and moral principles is a purely private matter. They say they believe in the Gospel values taught by Christ, but then insist that these are personal religious beliefs which should not influence public policy formation. This rejection of the relevance of their religious beliefs and moral principles to public policy making has become startlingly manifest when Catholic politicians reject the relevance of the Fifth Commandment, "Thou shalt not kill," in deciding whether they should vote to support the killing of unborn children.

This is indeed a strange kind of Catholicism.

Father George W. Rutler, associate pastor of Our Lady of Victory Parish in New York City, calls it "Shinto Catholicism," the privatization by Catholics of their belief in the teachings of Christ and His Church. Religion has meaning and relevance within the confines of home and family and church, but no direct relevance to politics.

Shinto Catholics reject the moral principles for which the great English Catholic statesman, Sir Thomas More, gave his life: "I believe, when statesmen forsake their own private conscience for the sake of their public duties . . . they lead their country by a short route to chaos."¹⁶

In recent years, many Catholics in Congress have repeatedly expressed the Shinto Catholic view in debates on the

14. DOCUMENTS OF AMERICAN HISTORY, *supra* note 9, at 131.

15. *Zorach v. Clauson*, 343 U.S. 306, 313 (1952).

16. R. BOLT, *A MAN FOR ALL SEASONS* 13 (1962).

right to life of unborn children. Their statements usually take the form, "I am personally opposed to abortion, but I will not impose my views on others." They separate law and traditional Judeo-Christian morality. To do this, they assert that God's law prohibiting the killing of a human being is irrelevant to public policy making.

Catholic politicians publicly reject the relevance of Judeo-Christian morality only when the secularist establishment disagrees with Catholic moral principles on a specific political issue, e.g., Catholic belief in the sanctity of the lives of unborn children and handicapped newborn children. When secularists don't disagree with Catholic positions based on moral principles, Catholic politicians don't feel compelled to disavow the relevance of their moral principles, e.g., in legislating to provide food, housing and medical care for the poor, or economic aid to Third World Countries, or to prohibit racial discrimination.

These politicians take inconsistent positions. While they say they cannot impose their moral values to prohibit the killing of unborn children, they do not hesitate to impose their values to prohibit murder, rape, child abuse, slander and many other practices described by the Bible as sinful. Clearly, they do not always separate their political actions from their belief in God, and from their religiously grounded moral values.

It is only on certain issues — most notably the right to life of unborn children — that Shinto Catholic politicians argue that they will not impose their moral principles on their fellow citizens. And that is largely, I think, the result of their having been intimidated by the secularist establishment and by such secularist interest groups as the American Civil Liberties Union (ACLU) and the American Jewish Congress (AJC).

When Congress passed the Hyde Amendment restricting the use of federal funds for elective abortions, the ACLU and AJC in the *McRae* case¹⁷ challenged the constitutionality of the restriction. They argued that Catholics had lobbied for the amendment, that they had lobbied successfully, that the amendment was an establishment of Catholic religious beliefs, and that therefore it violated the First Amendment.

The AJC argued later in the *Zbaraz* case¹⁸ that an Illinois pro-life law was unconstitutional because it imposed the doc-

17. *Harris v. McRae*, 448 U.S. 297 (1980).

18. *Zbaraz v. Williams*, 448 U.S. 358 (1980).

trine of those who hold that abortions violate God's law upon women who do not share this theological view, and that the First Amendment prohibits imposing on all the theology of some.

This ACLU and AJC argument, if successful, would degrade Catholics to the status of second class citizens. These secularist organizations would deny Catholics a voice in public policy making on issues that have a moral dimension, denying them their First Amendment rights to freedom of speech, freedom of religion, and the right to petition their government for a redress of grievances.

Monroe H. Freedman, former dean of the Hofstra Law School, an ACLU board member who favors legalized abortion, called the ACLU-AJC doctrine a "dangerous idea" which in effect says to Catholics, "If you want legislation to pass and be constitutional, you have to keep your mouth shut." This view, said Dean Freedman, "is so fundamentally anti-civil libertarian that I find it shocking."¹⁹

Many Catholic politicians, however, have not found it shocking. They have embraced the doctrine; they willingly keep their mouths shut, today, on the killing of unborn children, tomorrow, perhaps, on other issues that have a moral dimension. Today these Shinto Catholic politicians are willing to let the secularists dictate the laws on the killing of unborn children. Tomorrow perhaps they will, if they are logically consistent, let the secularists dictate the laws on other issues that raise religio-moral questions, such as, for example, the right of the aged not to be compelled to die to make room for the next generation, and the right of families to have more than one child.

The denial of constitutional rights to Catholics differs significantly from the allegation that the Church would deny Candidate Ferraro the right of choice in the abortion issue. Mrs. Ferraro has said that she believes a fertilized ovum is a baby, but that she has no right to impose her beliefs on others. Her position is either inconsistent, or she does not understand what belief is.

Some beliefs preclude acceptance of some choices. The belief that racial discrimination is wrong precludes acceptance of discrimination, though the discriminator may believe racial discrimination to be justified. The belief that the

19. The citation being unavailable, Dean Monroe Freedman verbally reaffirmed the statement in a telephone conversation with the author (Aug. 24, 1984).

slaughter of six million Jews in Germany was wrong precludes acceptance of genocide as a moral choice, whatever the views of the totalitarian dictator who would choose it. Similarly, the belief that the fetus is a human being precludes acceptance of abortion as a moral choice, whatever the views of the woman who would choose it.

The public official who believes racial discrimination or genocide to be unacceptable is obligated in conscience to oppose it. So also, the public official who believes the fetus to be a human being is obligated in conscience to oppose abortion. For Mrs. Ferraro, that is not to "impose" her religious beliefs on others but to protect the right to life of those she believes to be human beings.

Many abortion advocates and secularists have asserted that the National Conference of Catholic Bishops statement urging Catholics, including Catholic politicians, to work toward the protection of the right to life of unborn children violates separation of church and state. The Bishops' belief in the unborn child's right to life is a moral judgment, neither more nor less so than the belief in a woman's right to an abortion. But the Bishops' judgment, it is charged, is contaminated by its association with religious belief.

But if we rule out of public debate those moral principles that are rooted in religious beliefs, clearly we cannot limit our objection to the right to life issue. There are thousands of laws that impose moral standards that are rooted in religious beliefs — including the religious beliefs of even the most individualistic of Christians, who belong to no church and take their moral beliefs from the Bible as they personally understand it.

Hence, if the First Amendment prohibits Catholic bishops from introducing moral principles into politics, on the ground that they are rooted in theology, it must also prohibit all other moral principles in politics on the ground that they are rooted in theology or religious belief.

In the United States virtually all our moral principles are rooted in our Judeo-Christian tradition, in which the Bible is accepted as God's revealed word and the Ten Commandments as His revealed law. If the belief that the killing of unborn children is morally wrong cannot be the basis of public law because it is rooted in God's revealed law, the same must be said of the belief in the immorality of murder, theft, rape, child abuse, slander and every other practice condemned in the Bible. In the Judeo-Christian tradition, they are all moral principles, which cannot be separated from religious beliefs.

In our religious tradition, there are no moral judgments that are unrelated to God's revealed truths.

If Shinto Catholic politicians followed their own logic, they would be compelled by it to turn over all public policy making to non-believers and to politicians who reject all moral principles rooted in religious beliefs. In their zeal to separate church and state, they would disqualify from public service all Protestants, Catholics and Jews who believe that there are no moral judgments that are unrelated to God's revealed truths. They would qualify for public office only secularist politicians who frame morality on a strictly non-religious basis; secularists alone would be qualified to enact into law their judgments about the "rightness" not only of the killing of unborn children but also of murder, theft, rape, child abuse and scores of other actions.

Protestants, Catholics and Jews whose morality is rooted in religious belief would, under this doctrine, not be permitted to participate in the making of laws, for if they did, they would violate the separation of church and state. The same Shinto Catholic principle would, of course, apply to private citizens. They, too, would be required to declare that their moral principles which are rooted in and inseparable from God's revealed truths are, in fact, irrelevant to whether they vote and for whom they vote. Citizens who could not thus set aside their moral principles, would be required to refrain from voting and turn the making of public laws over to the secularists. They would be effectively disenfranchised, their First Amendment rights to freedom of speech, religion, and petition suppressed, and secularism established as the official religion of the nation.

The real issue, then, is not separation of church and state but religious freedom.

Do religious-minded citizens, whether Protestant, Catholic or Jew, have the right to act on the basis of their religious beliefs and religiously grounded moral principles in the political arena? Do they have the right under the First Amendment to bring their moral principles, rooted in their religious beliefs, into the formulation of public policy?

Must Catholic, Protestant, and Jewish politicians be Shinto Catholic, Shinto Protestant, and Shinto Jewish politicians —holding that their religious beliefs are purely private and unrelated to their public policy decisions? To require such would be to deny religious freedom to all politicians except the secularists, who deny the relevance of God's law to man in all activities, political and otherwise.

Catholics not only have the right to be Catholics in public life; they have an obligation to labor to preserve and strengthen the moral fiber of our society. If Catholic politicians fail in this task, they undercut and destroy the basic presuppositions and understandings of our pluralistic democratic society. In such a society it is assumed, indeed it is required, that each segment of our population, religious or otherwise, bring to the political arena its unique moral principles, views, insights, experience and other distinctive qualities which may be utilized for the resolution of common problems.

If Catholics, for example, fail to perform this duty in the formulation of public policy, they undercut the democratic process and render it incapable of achieving the common good. Such failure of duty is reprehensible, undemocratic, unethical, and destructive of the pluralistic nature of our democratic society. It threatens to surrender the formulation of public policy to a segment which, as in the case of secularists, rejects the very moral foundations of our democracy, as set forth in the Declaration of Independence.

The real question is: When will American Catholic politicians become sufficiently enlightened to play their proper role in our pluralistic democratic society as Catholics, and to bring, without fail, their personal moral principles into the formulation of public policy?

The answer, says Auxiliary Bishop Joseph Sullivan of Brooklyn, rests with the Catholic Church itself. Referring to the abortion issue, Bishop Sullivan told *The New York Times*, "The major problem the church has is internal. How do we teach? As much as I think we're responsible for advocating public policy issues, our primary responsibility is to teach our own people. We haven't done that. We're asking politicians to do what we haven't done effectively ourselves."²⁰

Bishop Sullivan is right. The Catholic Church has not effectively taught its people, much less other Americans, the nature of abortion and the consequent critical moral importance of the pro-life issue. As a direct result of the lack of such an educational program, politicians frequently cannot run for public office as pro-life candidates without committing political suicide.

Pope John Paul II has repeatedly emphasized the Church's duty to teach and to advocate solutions to public policy problems. Addressing the Bishops of Puebla, Mexico,

20. Briggs, *supra* note 3, at 8.

John Paul said: "[The Church] must preach, educate individuals and collectivities, form public opinion, and offer orientations to the leaders of the peoples."²¹ And in Salvador de Bahia, he said the Church's service "is above all a service of formation of conscience."²²

The duty to teach and advocate public policy positions on issues of vital concern to the Church, and indeed to our whole society, cannot be achieved with periodic public statements. Teaching and advocacy must be a continuing effort not only in every Catholic institution but also in every secular institution. Catholics, as a segment of our pluralistic democratic society, have an obligation to proclaim where they stand on public policy issues, and why, so that their fellow citizens may join or oppose them.

As the church-state debate is joined, for better or worse, a heavy burden rests with Catholic politicians. But a heavier — a much heavier — burden rests with the Church.

21. Pope John Paul II, Address to the Third General Assembly of the Latin American Bishops, Puebla, Mexico (Jan. 28, 1979), *reprinted in* 8 ORIGINS 536.

22. Pope John Paul II, Address to the Priests and Religious of El Salvador (Mar. 6, 1983), *reprinted in* 12 ORIGINS 640.